

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

JASON STRAMPEL, #298033,

Plaintiff,

v.

JUSTIN GOFF, et al.,

Defendants.

Case No. 2:22-cv-84

HON. JANET T. NEFF

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OPINION AND ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. The matter was referred to the Magistrate Judge to conduct an initial review of the complaint to determine whether this matter should proceed. The Magistrate Judge issued a Report and Recommendation (R&R), recommending the Court dismiss this case (ECF No. 7). The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation (ECF No. 8). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Opinion and Order.

Plaintiff objects to the Magistrate Judge's use of *Heck v. Humphrey*, 512 U.S. 477 (1994), to dismiss his case (Pl. Obj., ECF No. 8 at PageID.97; R&R, ECF No. 7 at PageID.84). The *Heck* doctrine requires Plaintiff's "conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus" before a claim for

monetary damages that implicate the propriety of his conviction or sentence is permissible. *Id.* at 487. Plaintiff argues that he is “barred by ‘Heck’ because of the intentional misconduct of the government” (ECF No. 8 at PageID.97-98).

Plaintiff’s argument fails to demonstrate any factual or legal error in the Magistrate Judge’s analysis or conclusion. Nowhere in his complaint or objection does Plaintiff assert or demonstrate that his conviction or sentence have been invalidated. The Magistrate Judge correctly applies *Heck* to Plaintiff’s case; he is barred from this action until he can demonstrate his conviction or sentence has been invalidated as described in *Heck*. *Heck*, 512 U.S. at 487.

Because the Court is dismissing Plaintiff’s federal claims, the Court also declines to exercise supplemental jurisdiction over Plaintiff’s state law claims. *See Landefeld v. Marion Gen. Hosp., Inc.*, 994 F.2d 1178, 1182 (6th Cir. 1993).

Accordingly, this Court adopts the Magistrate Judge’s Report and Recommendation as the Opinion of this Court. A Judgment will be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58. Because this action was filed *in forma pauperis*, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of this decision would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

Therefore:

IT IS HEREBY ORDERED that the Objections (ECF No. 8) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 7) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

Dated: January 5, 2023

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge